

CLOSED,PROSEREF,SCR

**United States District Court
Middle District of Pennsylvania (Scranton)
CIVIL DOCKET FOR CASE #: 3:12-cv-02206-ARC**

Walker v. Court of Common Pleas of Monroe County
Forty-Third Judicial District Commonwealth of Pennsylvania et
al
Assigned to: Honorable A. Richard Caputo
Cause: 05:552 Freedom of Information Act

Date Filed: 11/05/2012
Date Terminated: 08/29/2013
Jury Demand: Plaintiff
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: Federal Question

Plaintiff

Ben Walker

represented by **Ben Walker**
117 Duck Hollow Circle
Stroudsburg, PA 18360
PRO SE

V.

Defendant

**Court of Common Pleas of Monroe
County Forty-Third Judicial District
Commonwealth of Pennsylvania**

represented by **Mary E. Butler**
Administrative Office of PA Courts
1515 Market Street
Suite 1414
Philadelphia, PA 19102
215-560-6300
Fax: 12155605486
Email: legaldepartment@pacourts.us
ATTORNEY TO BE NOTICED

Defendant

Stephen M Higgins
Judge

represented by **Mary E. Butler**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

George J. Warden
Prothonoary and Clerk of Courts

represented by **Gerard J. Geiger**
Newman, Williams, Mishkin, Corveleyn,
Wolfe & Fareri
712 Monroe St.
Stroudsburg, PA 18360
570-421-9090
Fax: 424-9739
Email: ggeiger@newmanwilliams.com
ATTORNEY TO BE NOTICED

Defendant

Jessica Jones
Deputy Prothonotary

represented by **Gerard J. Geiger**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**Unnamed Male Attorney, Public
Defender Office**
TERMINATED: 11/08/2012

Defendant

Judge Jonathan Mark

represented by

Mary E. Butler
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Wieslay T. Niemoczynski
Public Defender

represented by **Gerard J. Geiger**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Fred Cutaio
Public Defender

represented by **Gerard J. Geiger**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Kimberly Fedrignon
Public Defender

represented by **Gerard J. Geiger**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

The Court of Common Pleas of Monroe County
Pennsylvania Domestic Relations Section

represented by **Mary E. Butler**
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/05/2012	<u>1</u>	COMPLAINT against Court of Common Pleas of Monroe County Forty-Third Judicial District Commonwealth of Pennsylvania, Stephen M Higgins (Filing fee \$350, Receipt Number 333026134), filed by Ben Walker. (Attachments: # <u>1</u> Receipt, # <u>2</u> Civil Cover Sheet, # <u>3</u> Exhibit(s) A, # <u>4</u> Exhibit(s) B, # <u>5</u> Exhibit(s) C, # <u>6</u> Exhibit(s) D, # <u>7</u> Exhibit(s) E, # <u>8</u> Exhibit(s) F, # <u>9</u> Exhibit(s) G, # <u>10</u> Exhibit(s) H, # <u>11</u> Exhibit(s) I, # <u>12</u> Exhibit(s) J, # <u>13</u> Exhibit(s) K)(ga) (Entered: 11/05/2012)
11/07/2012		Case assigned to Judge Caputo and Magistrate Judge Carlson. (kn) (Entered: 11/07/2012)
11/08/2012	<u>2</u>	AMENDMENT TO THE COMPLAINT, defining correct defendants, against Stephen M Higgins, Jessica Jones, George J. Warden, Jonathan Mark, Wieslay T. Niemoczynski, Fred Cutaio, Kimberly Fedrignon, The Common Of Common Pleas of Monroe County, filed by Ben Walker.(rm) (Entered: 11/08/2012)
11/08/2012	<u>3</u>	Summons Reissued as to Court of Common Pleas of Monroe County Forty-Third Judicial District Commonwealth of Pennsylvania, Fred Cutaio, Kimberly Fedrignon, Stephen M Higgins, Jessica Jones, Jonathan Mark, Wieslay T. Niemoczynski, The Common Of Common Pleas of Monroe County, George J. Warden. (rm) (Entered: 11/08/2012)
11/09/2012	<u>4</u>	EXHIBIT L by Ben Walker re <u>1</u> Complaint,. (cw) (Entered: 11/09/2012)
11/09/2012	<u>5</u>	AMENDMENT TO THE COMPLAINT against All Defendants, filed by Ben Walker.(rm) (Entered: 11/09/2012)
11/13/2012		Summons Reissued as to Court of Common Pleas of Monroe County Forty-Third Judicial District Commonwealth of Pennsylvania, Fred Cutaio, Kimberly Fedrignon, Stephen M Higgins, Jessica Jones, Jonathan Mark, Wieslay T. Niemoczynski, The Common Of Common Pleas of Monroe County, George J. Warden. (cw) (Entered: 11/13/2012)
11/13/2012	<u>6</u>	AMENDEDMENT by Ben Walker. Amendment to <u>1</u> Complaint,. (ga) (Entered: 11/13/2012)
11/15/2012	<u>7</u>	Correction by Ben Walker. to <u>6</u> Amended Complaint. (Attachments: # <u>1</u> Cover Letter)(ep) (Entered: 11/15/2012)

11/16/2012	<u>8</u>	Letter dated 11/16/2012 from Ben Walker (bg) (Entered: 11/16/2012)
11/29/2012	<u>9</u>	SUMMONS Returned Executed by Ben Walker. Court of Common Pleas of Monroe County Forty-Third Judicial District Commonwealth of Pennsylvania served on 11/20/2012, answer due 12/11/2012; Fred Cutaio served on 11/20/2012, answer due 12/11/2012; Kimberly Fedrigon served on 11/20/2012, answer due 12/11/2012; Stephen M Higgins served on 11/20/2012, answer due 12/11/2012; Jessica Jones served on 11/20/2012, answer due 12/11/2012; Jonathan Mark served on 11/20/2012, answer due 12/11/2012; Wieslay T. Niemoczynski served on 11/20/2012, answer due 12/11/2012; The Court of Common Pleas of Monroe County served on 11/20/2012, answer due 12/11/2012; George J. Warden served on 11/20/2012, answer due 12/11/2012. (ga) (Entered: 11/29/2012)
11/29/2012	<u>10</u>	NOTICE of Appearance by Gerard J. Geiger on behalf of Fred Cutaio, Jessica Jones, Wieslay T. Niemoczynski, George J. Warden (Geiger, Gerard) (Entered: 11/29/2012)
12/03/2012	<u>11</u>	NOTICE of Appearance by Gerard J. Geiger on behalf of Kimberly Fedrigon (Geiger, Gerard) (Entered: 12/03/2012)
12/13/2012	<u>12</u>	MOTION for Default Judgment as to Defendants by Ben Walker.(ga) (Entered: 12/13/2012)
12/14/2012	<u>13</u>	NOTICE of Appearance by Mary E. Butler on behalf of Court of Common Pleas of Monroe County Forty-Third Judicial District Commonwealth of Pennsylvania, Stephen M Higgins, Jonathan Mark, The Court of Common Pleas of Monroe County (Butler, Mary) (Entered: 12/14/2012)
12/14/2012	<u>14</u>	MOTION for Extension of Time to File Answer re <u>5</u> Amended Complaint by Court of Common Pleas of Monroe County Forty-Third Judicial District Commonwealth of Pennsylvania, Stephen M Higgins, Jonathan Mark, The Court of Common Pleas of Monroe County. (Attachments: # <u>1</u> Proposed Order)(Butler, Mary) (Entered: 12/14/2012)
12/14/2012	<u>15</u>	MOTION to Strike <u>12</u> MOTION for Default Judgment as to by Fred Cutaio, Kimberly Fedrigon, Jessica Jones, Wieslay T. Niemoczynski, George J. Warden. (Attachments: # <u>1</u> Proposed Order)(Geiger, Gerard) (Entered: 12/14/2012)
12/14/2012	<u>16</u>	BRIEF IN SUPPORT re <u>15</u> MOTION to Strike <u>12</u> MOTION for Default Judgment as to filed by Fred Cutaio, Kimberly Fedrigon, Jessica Jones, Wieslay T. Niemoczynski, George J. Warden.(Geiger, Gerard) (Entered: 12/14/2012)
12/17/2012	<u>17</u>	MOTION to Dismiss <i>Plaintiff's Amended Complaint</i> by Court of Common Pleas of Monroe County Forty-Third Judicial District Commonwealth of Pennsylvania, Stephen M Higgins, Jonathan Mark, The Court of Common Pleas of Monroe County. (Attachments: # <u>1</u> Proposed Order)(Butler, Mary) (Entered: 12/17/2012)
12/17/2012	<u>18</u>	BRIEF IN OPPOSITION re <u>15</u> MOTION to Strike <u>12</u> MOTION for Default Judgment as to filed by Ben Walker.(ga) (Entered: 12/17/2012)
12/19/2012	<u>19</u>	BRIEF IN OPPOSITION re <u>14</u> MOTION for Extension of Time to File Answer re <u>5</u> Amended Complaint filed by Ben Walker.(ga) (Entered: 12/19/2012)
12/19/2012	<u>20</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Fred Cutaio, Kimberly Fedrigon, Jessica Jones, Wieslay T. Niemoczynski, George J. Warden. (Attachments: # <u>1</u> Proposed Order)(Geiger, Gerard) (Entered: 12/19/2012)
12/21/2012	<u>21</u>	BRIEF IN SUPPORT re <u>20</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Fred Cutaio, Kimberly Fedrigon, Jessica Jones, Wieslay T. Niemoczynski, George J. Warden.(Geiger, Gerard) (Entered: 12/21/2012)
12/21/2012	<u>22</u>	BRIEF IN OPPOSITION re <u>17</u> MOTION to Dismiss <i>Plaintiff's Amended Complaint</i> filed by Ben Walker.(ga) (Entered: 12/21/2012)
12/21/2012	<u>23</u>	BRIEF IN OPPOSITION re <u>20</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Ben Walker.(ga) (Entered: 12/21/2012)
12/26/2012	<u>24</u>	BRIEF IN SUPPORT re <u>12</u> MOTION for Default Judgment as to filed by Ben Walker.(ga) (Entered: 12/26/2012)

12/26/2012	<u>25</u>	LETTER AMENDMENT by Ben Walker. Amendment to <u>22</u> Brief in Opposition. (ga) (Additional attachment(s) added on 12/26/2012: # <u>1</u> Brief in Opposition of Motion to Dismiss Plaintiff's Aended Complant filed on Behalf of Judicial Defendants) (ga). (Entered: 12/26/2012)
12/26/2012	<u>26</u>	BRIEF IN OPPOSITION re <u>14</u> MOTION for Extension of Time to File Answer re <u>5</u> Amended Complaint filed by Ben Walker.(ga) (Entered: 12/26/2012)
12/26/2012	<u>27</u>	BRIEF IN OPPOSITION to Deft's <u>20</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM, filed by Pltf Ben Walker.(rm) (Entered: 12/27/2012)
12/27/2012	<u>28</u>	REPORT AND RECOMMENDATION – IT IS RECOMMENDED as follows: 1. First, Walkers motion for entry of default (Doc. <u>12</u>), should be denied since the defendants have now responded to the complaint by filing motions to dismiss. 2. Second, in light of the denial of this default motion, the defendants motion to strike this default motion should be dismissed as moot. (Doc. <u>15</u> .) 3. Third, since there are a series of profound legal deficiencies in Walkers various pro se complaints, the defendants motions to dismiss (Docs. <u>17</u> and <u>20</u>), should be granted and the plaintiffs complaint should be dismissed without prejudice to the plaintiff endeavoring to file a single comprehensive amended complaint which attempts to cure the deficiencies cited in this report and recommendation, provided that the plaintiff acts within 20 days of any dismissal order by filing an amended complaint. 4. Finally, in light of this proposed disposition of the motions to dismiss, it is recommended that the motion for extension of time in which to respond to Walkers various complaints (Doc. <u>14</u>), be dismissed as moot. Objections to RRdue by 1/14/2013. Signed by Magistrate Judge Martin C. Carlson on December 27, 2012. (kjn) (Entered: 12/27/2012)
12/28/2012	<u>29</u>	BRIEF IN OPPOSITION re <u>15</u> MOTION to Strike <u>12</u> MOTION for Default Judgment as to filed by Ben Walker.(ao) (Entered: 12/28/2012)
12/28/2012	<u>30</u>	Supplement by Ben Walker to <u>29</u> Brief in Opposition. (ao) (Entered: 12/28/2012)
01/07/2013	<u>31</u>	OBJECTION to <u>28</u> Report and Recommendations. (ga) (Entered: 01/07/2013)
05/29/2013	<u>32</u>	MEMORANDUM Signed by Honorable A. Richard Caputo on 5/29/13. (jam) (Entered: 05/29/2013)
05/29/2013	<u>33</u>	ORDER: IT IS HEREBY ORDERED that: (1) The Report and Recommendation (Doc. 28) is ADOPTED.(2) Plaintiffs Motion for Default Judgment (Doc. 12) is DENIED. (3) The County Defendants Motion to Strike Plaintiffs Motion for Default Judgment (Doc. 15) is DISMISSED AS MOOT. (4) The Judicial Defendants Motion to Dismiss (Doc. 17) is GRANTED.(5)The County Defendants Motion to Dismiss (Doc. 20) is GRANTED.(6)The Judicial Defendants Motion for Enlargement of Time (Doc. 14) is DISMISSED AS MOOT.(7)Plaintiffs Complaint (Doc. 1) is DISMISSED WITHOUT PREJUDICE. Plaintiff has twenty-one (21) days from the date of entry of this Order to file a single comprehensive amended complaint consistent with the Courts Memorandum. If he fails to do so, the action will be dismissed with prejudice and the case will be closed.(8)The matter is RECOMMITTED to the Magistrate Judge.Signed by Honorable A. Richard Caputo on 5/29/13. (jam) (Entered: 05/29/2013)
06/11/2013	<u>34</u>	AMENDED COMPLAINT against Court of Common Pleas of Monroe County Forty–Third Judicial District Commonwealth of Pennsylvania, Fred Cutaio, Kimberly Fedrigon, Stephen M Higgins, Jessica Jones, Jonathan Mark, Wieslay T. Niemoczynski, The Court of Common Pleas of Monroe County, George J. Warden, filed by Ben Walker.(ga) (Entered: 06/11/2013)
06/28/2013	<u>35</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Fred Cutaio, Kimberly Fedrigon, Jessica Jones, Wieslay T. Niemoczynski, George J. Warden. (Attachments: # <u>1</u> Proposed Order)(Geiger, Gerard) (Entered: 06/28/2013)
06/28/2013	<u>36</u>	BRIEF IN SUPPORT re <u>35</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Fred Cutaio, Kimberly Fedrigon, Jessica Jones, Wieslay T. Niemoczynski, George J. Warden.(Geiger, Gerard) (Entered: 06/28/2013)
07/11/2013	<u>37</u>	BRIEF IN OPPOSITION re <u>35</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Ben Walker.(ga) (Entered: 07/11/2013)

07/24/2013	<u>38</u>	REPORT AND RECOMMENDATION re <u>35</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM – IT IS RECOMMENDED that the Motion to Dismiss filed by defendants Fred Cutaio, Kimberly Fedrigon, Jessica Jones, Wieslay T. Niemoczynski, and George J. Warden, (Doc. 35.), should be GRANTED, and the plaintiffs amended complaint dismissed as to these defendants with prejudice. Objections to RR due by 8/12/2013. Signed by Magistrate Judge Martin C. Carlson on July 24, 2013. (kjn) (Entered: 07/24/2013)
08/29/2013	<u>39</u>	ORDER ADOPTING REPORT AND RECOMMENDATIONS: IT IS HEREBY ORDERED that: (1) The Report and Recommendation (Doc. 38) is ADOPTED. (2) Defendants Motion to Dismiss for Failure to State a Claim (Doc. 35) is GRANTED. (3) The action is DISMISSED WITH PREJUDICE. (4) The Clerk of Court is directed to mark the case as CLOSED. Signed by Honorable A. Richard Caputo on 8/29/13. (jam) (Entered: 08/29/2013)